

3035994-LRB/SRS

No. 6289100

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NOTICE OF REMOVAL

NOW COMES Defendant, Panera, LLC, by and through its attorneys, Lew R.C. Bricker, Sara R. Strom, and SmithAmundsen LLC, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, remove this action to the United States District Court for the Northern District of Illinois, Eastern Division, and in support thereof, states as follows:

1. Defendant's Notice of Removal is based upon subject matter jurisdiction conferred by diversity of citizenship as established in 28 U.S.C. §§ 1332.

2. Upon information and belief, the plaintiff, Diane Willis, was a resident and citizen of Illinois at the time of the alleged incident and at the time of filing of her Complaint.

3. The Defendant, Panera, LLC, is organized in the state of Delaware. Panera, LLC maintains its principal place of business in St. Louis, Missouri. (See Printout from Delaware Secretary of State's Website attached as Exhibit A and Affidavit of Julie Immer of Panera, LLC attached as Exhibit B).

4. Defendant Panera Partners, LLC is a named defendant that has no relation to Panera, LLC and to Defendant's knowledge, does not have any interest in the outcome of this litigation. *Ex. B.*

5. Complete diversity of citizenship exists between Plaintiff Diane Willis and Defendant Panera, LLC.

6. On December 12, 2017, Plaintiff Diane Willis filed a Complaint at Law in the Circuit Court of Cook County, Illinois, Law Division, bearing Cook County Court No. 2017 L 012626. (*See* Plaintiff's Complaint attached as Exhibit C).

7. The Complaint at Law alleges that as a result of the incident, the plaintiff suffered personal and pecuniary injuries "in a sum in excess of FIFTY THOUSAND (\$50,000.00) DOLLARS." *Id.* at ¶ 14 and prayer for relief of *Ex. C.* The attorney for the plaintiff has also informed the defendant's counsel that the plaintiff allegedly sustained a shoulder fracture and knee contusion as a result of this incident. Accordingly, the movant believes in good faith that the amount in controversy exceeds the jurisdictional limit of \$75,000.00.

8. Service was achieved on the Defendant Panera, LLC on December 20, 2017. (*See* Summons and Notice of Service of Process attached as Exhibit D).

9. Each defendant has thirty (30) days after service on that defendant of the initial pleading to file his notice of removal. 28 U.S.C. § 1446(b). Consequently, it is immaterial that the Plaintiff has not yet served the other named Defendant, Panera Partners, LLC.

10. This Notice was filed within (30) thirty days of "the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." 28 U.S.C. § 1446(b).

11. As required by 28 U.S.C. § 1446(d), the movant will promptly serve upon plaintiff's counsel and file with the Cook County Circuit Court a true and correct copy of this Notice.

12. By removing this action, the Defendant does not waive any defenses available to it.

13. If any question arises as to the propriety of the removal of this action, the movant requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

WHEREFORE, Defendant, Panera, LLC, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 pray that this Honorable Court retain jurisdiction of the matter pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. The Defendant prays for further and other relief as this Court deems proper and just.

Respectfully submitted,

SMITHAMUNDSEN LLC

By: /s/Sara R. Strom
Attorney for Defendant, Panera, LLC

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**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DIANE WILLIS,)
v.)
Plaintiff,)
Case No.:
PANERA, LLC, a Foreign Corporation, and)
PANERA PARTNERS, LLC, an Illinois)
Corporation,)
Defendants.)

CERTIFICATE OF SERVICE

The undersigned certifies that on the **17th day of January 2018**, she served a copy of **Defendant Panera, LLC's Notice of Removal to Federal Court Based on Diversity and Appearances** on:

Attorney Daniel T. Madigan
c/o Motherway & Napleton, LLC
140S. Dearborn St., Suite 1500
Chicago, IL 60603

via first class mail by depositing same into an envelope properly sealed and with proper postage prepaid, into the U.S. Mail at 150 North Michigan, Chicago, Illinois before 5:00 p.m. on January 17, 2018.

[x] Pursuant to 28 USC Section 1746(2),
I certify under penalty of perjury that
the foregoing is true and correct.
Executed on: 1/17/2018.

s/ _____ Sara R. Strom

Lew R.C. Bricker, ARDC # 6206641
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